



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. :	09/706,965	Confirmation No. :	8509
Applicant(s) :	Kiani et al.		
Filed :	November 6, 2000		
TC/A.U. :	3736		
Examiner :	Matthew J. Kremer		
Docket No. :	MLABS.018C3		
Customer No. :	20,995		

Commissioner for Patents
 United States Patent and Trademark Office
 P.O. Box 1450
 Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.131

Dear Sir:

1. This declaration is to establish the status of the invention in the above-captioned U.S. Patent Application prior to December 31, 1991, which is before the effective filing date of U.S. Patent No. 5,372,135, issued on December 13, 1994 to Mendelson et al.

2. I am one of the named inventors of the described subject matter and all claims in the above-captioned U.S. Patent Application Serial No. 09/706,965 ("the '965 application"), filed November 6, 2000, titled "Active Pulse Blood Constituent Monitoring". The '965 application claims a priority benefit to, among other applications, U.S. Patent Application Serial No. 08/482,071, filed June 7, 1995, titled "Active Pulse Blood Constituent Monitoring," now U.S. Patent 5,638,818 ("the Parent application").

3. I hereby declare that prior to December 31, 1991, I conceived an active pulse blood constituent monitoring system such as the device described and claimed in the '965 patent application.

4. Since that time, I continuously worked toward reducing the constituent monitoring system to practice.

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Application No. : 09/706,965

5. Evidence of the conception is set forth in Exhibit A attached hereto with dates obscured.

6. I hereby declare that acts leading to the reduction to practice of the subject matter claimed in the '965 patent application were performed in the United States.

7. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent resulting therefrom.

Dated: July - 28 - 2003

By:

Mohamed Kheir
Mohamed Kheir Diab

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072803

Exhibit A

2 Copies of Executed Page 27 of Lab Notebook

Proj. ct No. _____

Bo k No. _____

TITLE _____

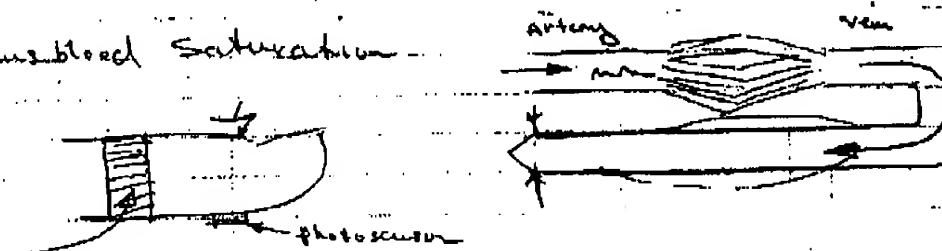
From Page No. _____

Two plethysmographic waveform (2-3 steps on 10200) cannot give a
Reading.

Skin temperature

Digit ~~test~~ test
Finger
Tourniquet

Measurement of venous blood saturation



Using a tourniquet

with inflated

Tourniquet
@ 40 mmHg

to 40 mmHg will partially

block the venous blood return path. the increase in light absorption due to accumulation of venous blood is measured. @ two or more wave lengths

To Page N

Witnessed & Understood by me,

Date

Invented by

Date

Recorded by

Pr Ject No. _____
Book No. _____

Page No. _____

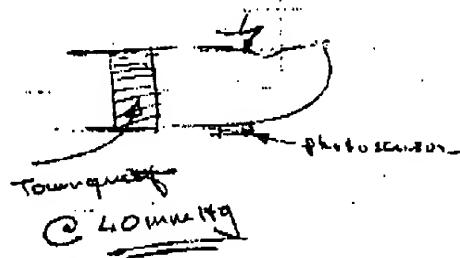
Loco plethysmographic waveform (2-3 steps on 40200) cannot give oxygen reading.

- skin temperature
- Digitak kit
- Tourniquet

Measurement of venous blood saturation

ing a tourniquet

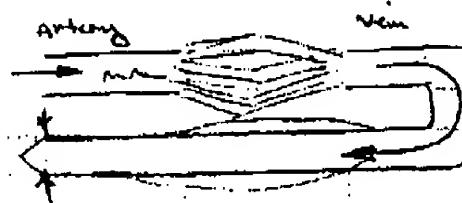
be inflated



leaving a hole partially

the venous blood return path. the increase in light absorption due

accumulation of venous blood is measured @ two or more wave lengths



To Page No. _____

Assed & Understood by me,

Date

Invented by

Date

Recorded by

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